IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

Crl.MC.No. 3229 of 2007()

CRIME NO. 8/07 OF THUMBA POLICE STATION

PETITIONERS:

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1. SASIKUMAR, AGED 43, S/O.AYYAPPAN NAIR,
   GEETHA BHAVAN, VALIYAVELI P.O.,
   THIRUVANANTHAPURAM (ACCUSED).

2. GEETHAKUMARI,W/O.SASIKUMAR, AGED 39,
   GEETHA BHAVAN, VALIYAVELI P.O.,
   THIRUVANANTHAPURAM.

BY ADV. SRI.S.SUDHISH KUMAR
SRI.K.B.DAYAL

RESPONDENTS:

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1. STATE OF KERALA REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM. (SUB INSPECTOR OF POLICE, THUMBA
   POLICE STATION,THIRUVANANTHAPURAM.

2. KUMARI, AGED ABOUT 33 YEARS,
   D/O.SARASWATHY, MADAVILA KIZHAKKAE VEETTIL
   UPENIYUR, PARAVACHAMBALAM,THIRUVANANTHAPURAM.

3. SANTHOSH, AGED ABOUT 34 YEARS,
   S/O.FRANCIS, MEKKAEKARA PUTHENVEETTIL,
   PERINGOTTUKONAM, NEYYATTINKARA.

R1 BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3229 of 2007

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Dated this the 19th day of October, 2007

O R D E R

The petitioners are accused facing allegations in a crime registered for offences punishable, inter alia, under Section 420 I.P.C. Investigation is in progress. The petitioners apprehend imminent arrest. They pray that the F.I.R. may be quashed.

2. What is the ground? The learned counsel for the petitioners submits that as a matter of fact the allegations are false and cannot be accepted.

3. I must alertly remind myself that I am called upon to exercise the extra ordinary inherent jurisdiction under section 482 Cr.P.C. Such jurisdiction, it is trite, cannot be invoked as a matter of course. Satisfactory, compelling and exceptional reasons must be shown to exist to invoke such powers. Such powers can of course be invoked in an appropriate case to quash an F.I.R. also. But that must be a case of really exceptional facts, which alone can persuade the court to stop the investigation invoking such powers.

4. The question as to whether the allegations are true or false cannot normally be adjudicated and decided by this Court in

proceedings under Section 482 Cr.P.C. Having heard the learned counsel for the petitioners, the crucial contention appears to be that it was only a time barred civil liability and there is no question of fraudulent inducement of the alleged victims by the accused persons. That subtle question must certainly be decided after proper investigation and trial, if necessary. I cannot embark on an enquiry into that aspect and come to any satisfactory or authentic conclusion at this stage.

5. It is for the petitioners to seek regular or anticipatory bail as the case may be. The learned counsel for the petitioners submits that anticipatory bail application has already been rejected by this Court. The petitioners must, in these circumstances, surrender before the learned Magistrate or the Investigating Officer and seek regular bail in the ordinary course. Observations to that effect have been made in the order passed in the anticipatory bail application. The learned counsel expresses the apprehension that the learned Magistrate may not consider the application for regular bail on merits. I find no basis for such apprehension. The fact that anticipatory bail application has been dismissed is no reason by itself to reject the regular bail application also. The area, zone and nature of consideration in an application for anticipatory bail and in one for regular

bail are certainly different. The quality of consideration would also be different. The petitioners must appear before the learned Magistrate and seek regular bail.

6. This Crl.M.C. is accordingly dismissed with the above observations.

(R. BASANT)
Judge

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